United Nations CAT/C/FIN/CO/7

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture

Concluding observations on the seventh periodic report of Finland*

1. The Committee against Torture considered the seventh periodic report of Finland (CAT/C/FIN/7) at its 1464th and 1467th meetings, held on 9 and 10 November 2016 (see CAT/C/SR.1464 and 1467), and adopted the present concluding observations at its 1492nd meeting, held on 29 November 2016.

A. Introduction

2. The Committee appreciates the timely submission of the report by the State party under the simplified reporting procedure and commends it for complying with the follow-up procedure and the recommendations contained in the concluding observations on the combined fifth and sixth periodic reports (CAT/C/FIN/CO/5-6). It welcomes the dialogue with the State party's delegation and the information provided orally in response to the concerns raised by the Committee.

B. Positive aspects

3. The Committee welcomes the ratification of or accession to the following international instruments by the State party:

(a) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, on 1 June 2012;

(b) The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, on 31 January 2014;

(c) The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, on 8 October 2014;

(d) The Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto, on 11 May 2016.

4. The Committee welcomes the State party's initiatives to revise its legislation in areas of relevance to the Convention, including:

* Adopted by the Committee at its fifty-ninth session (7 November-7 December 2016).

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(a) The amendments to the Criminal Investigation Act (805/2011), to the Coercive Measures Act (806/2011) and to the Police Act (872/2011), which entered into force on 1 January 2014;

(b) The adoption of the Act on Probationary Liberty under Supervision (629/2013), which entered into force on 1 January 2014;

(c) The adoption of the Act on State Compensation to Producers of Shelter Services (1354/2014), which entered into force on 1 January 2015;

(d) The amendments to the Act on the Treatment of Persons Detained by the Police (Government Bill 348/2014), on 10 March 2015;

(e) The amendments to the Act on the Treatment of Aliens Placed in Detention and on Detention Units (Government Bill 172/214), on 14 March 2015;

(f) The amendments to the Prison Act and Remand Imprisonment Act (45/2014), which entered into force on 1 May 2015;

(g) The amendments to the Act on the Reception of Persons Seeking International Protection and on the Identification of and Assistance to Victims of Human Trafficking (746/2011), which entered into force on 1 July 2015;

(h) The amendments to the Aliens Act (170/2014 and 218/2014), inter alia, prohibiting the detention of unaccompanied minors seeking international protection, which entered into force on 1 July 2015;

(i) The amendments to the Code of Judicial Procedure (46/2014) explicitly prohibiting the use of evidence obtained through torture in judicial proceedings, which entered into force on 1 January 2016.

5. The Committee also welcomes the initiatives of the State party to amend its policies, programmes and administrative measures to give effect to the Convention, including:

(a) The adoption of the National Action Plan to Reduce Violence against Women for the period 2010-2015 and the implementation of the project "Support services for victims of sexual violence";

(b) The adoption of the National Action Plan on Fundamental and Human Rights for 2012-2013;

(c) The adoption in August 2012 of the Action Plan for the Prevention of Circumcision of Girls and Women 2012-2016;

(d) The implementation by the National Institute for Health and Welfare of the national action plan for the reduction of disciplinary violence against children for 2010-2015 and the implementation during the period 2013-2016 of the "children's house" pilot project, which aims to provide assistance to children and young people who are victims of sexual and physical violence;

(e) The appointment on 1 June 2014 by the Ministry of the Interior of a coordinator for activities aimed at combating human trafficking for the period 1 June 2015-31 May 2017;

(f) The designation on 7 November 2014 of the Parliamentary Ombudsman as the national preventive mechanism of Finland;

(g) The transfer of the health-care services of inmates to the National Institute for Health and Welfare, under the Ministry of Social Affairs and Health, in 2016.

C. Principal subjects of concern and recommendations

Statute of limitations for acts of torture

6. The Committee is concerned that the crime of torture is subject to a maximum statute of limitations of 20 years for bringing charges and that only the most severe cases of torture, i.e. when the offence is committed as part of a war crime or a crime against humanity entailing a maximum penalty of life imprisonment, are not time barred with regard to bringing charges for acts of torture (arts. 1, 2 and 4).

7. **The Committee reiterates its recommendation that the State party amend the Criminal Code to ensure that acts of torture are not subject to any statute of limitations (see CAT/C/FIN/CO/5-6, para. 7).**

Fundamental legal safeguards

8. The Committee is concerned about reports that:

(a) There are delays, sometimes lasting several days, in issuing notifications that a person has been taken into custody, in particular in cases involving foreigners who are not resident in the State party and who do not speak Finnish;

(b) The health care afforded to persons in police custody is inadequate, including in terms of the systematic medical screening they are subject to upon arrival in police detention facilities, in particular at Espoo, Imatra, Kuopio, Lahti and Vantaa police detention facilities;

(c) Audio and video recordings of interrogations during criminal investigations are not systematically carried out and only certain police departments have the equipment needed to record hearings involving children (arts. 2, 11 and 16).

9. **The State party should:**

(a) **Implement the legal provisions and comply with the maximum 48-hour time limit for notifying family members of a person deprived of his or her liberty, or any other person of his or her choice, that he or she has been taken into custody;**

(b) **Ensure that newly arrived detainees, including those held in remand, receive a routine medical screening by a doctor within 24 hours of their arrival in all police detention facilities and that access to independent doctors is provided when requested by the detainee;**

(c) **Provide information on medical screening and access to medical care of all remand prisoners, in particular at Espoo, Imatra, Kuopio, Lahti and Vantaa police detention facilities;**

(d) **Allocate sufficient funds to systematically equip all places where pretrial investigations take place, in particular police stations, with closed circuit television, audio and video recording equipment.**

Non-admissibility of evidence

10. While noting that the Code of Judicial Procedure prohibits the use in judicial proceedings of evidence obtained through torture, the Committee is concerned that chapter 17, section 25 (3), of the Code of Judicial Procedure allows for the use of evidence obtained unlawfully, including through ill-treatment, if it does not prejudice a fair trial (arts. 2 and 15).

11. **The Committee recommends that the State party amend the Code of Judicial Procedure to prohibit the admissibility in judicial proceedings of evidence obtained**

through ill-treatment and remove the provisions that give courts discretionary authority when it comes to the use of evidence obtained unlawfully.

Non-refoulement

12. While taking note of the nearly tenfold increase in the number of asylum applications in the State party over the past year and the increase in the refugee recognition rate, the Committee is concerned that recent changes in legislation and practice may have reduced legal safeguards for asylum seekers and increased the risk of refoulement. It is concerned about the abolishment of "humanitarian protection" as a national protection category and about restrictions on legal aid for asylum seekers. It is also concerned that the acceleration of status determination procedures may result in a person's speedy removal from the country, giving the person affected a maximum of seven days to apply for an enforcement ban while an appeal on a negative decision is being considered in court, and may not have an automatic suspensive effect. The Committee is also concerned that asylum seekers who are victims of torture may not be effectively identified and that asylum seekers continue to be detained, in particular pending their removal from the country. Moreover, it is concerned about the absence of statistics regarding the number of asylum seekers and undocumented immigrants held in detention facilities run by the police and the Finnish Border Guard (arts. 2, 3 and 16).

13. **The State party should:**

(a) **Take effective legislative, judicial and administrative measures in order to maintain the high quality of refugee status determination procedures while complying with its obligations regarding non-refoulement under article 3 of the Convention;**

(b) **Ensure that all asylum requests are evaluated on an individual, case-by-case basis, that legal aid is available to asylum seekers during all stages of the proceedings, that asylum seekers have an effective right to appeal negative decisions and that legislation that deals with the deportation of foreign citizens allows for appeals to courts against deportation orders to have a suspensive effect;**

(c) **Ensure that no person is expelled, returned or extradited to a country where there are substantial grounds for believing that he or she would be in danger of being subjected to torture;**

(d) **Ensure screening for mental health disorders and other consequences of torture-related trauma and provide support, appropriate specialized treatment and rehabilitation to all asylum seekers who are victims of torture;**

(e) **Refrain from detaining asylum seekers and aliens, promote alternatives to detention and revise its policy to bring it into line with the Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum Seekers and Alternatives to Detention;**

(f) **Set up a mechanism to monitor and provide statistics, disaggregated by sex, age, ethnicity and country of origin, on asylum seekers and undocumented immigrants detained under the Aliens Act and provide the Committee with that information.**

National preventive mechanism

14. The Committee is concerned that, while the Parliamentary Ombudsman has been entrusted with the task of serving as the national preventive mechanism, insufficient financial or human resources have been allocated to the Ombudsman and that the mechanism may not have the human resources necessary to carry out its mandate (art. 2).

15. **The State party should strengthen the national preventive mechanism by providing it with sufficient financial and human resources to enable it to carry out its mandate independently and effectively, in accordance with the guidelines of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. It should also consider the possibility of establishing the national preventive mechanism as a separate entity under the Parliamentary Ombudsman, with budgetary and staffing autonomy.**

Detention of remand prisoners in police detention facilities

16. While taking note of the amendments in the Prison Act and the Remand Imprisonment Act and the submission to Parliament on 1 December 2016 of the Government's proposal on remand imprisonment, including that starting in 2025 at the latest remand prisoners should no longer be held in police detention facilities, the Committee remains concerned at the lengthy detention of remand prisoners in police detention facilities, which do not meet the conditions required for holding such prisoners, about the threats and ill-treatment to which they may be subjected, the lack of outdoor exercise and the lack of access to television and of involvement in other meaningful activities. It is also concerned that some persons continue to be held in police detention facilities solely for being intoxicated (arts. 2, 11 and 16).

17. **The State party should:**

(a) **Discontinue holding remand prisoners in police detention facilities and allocate sufficient financial, human and infrastructural resources to the Criminal Sanctions Agency to allow the Agency to place remand prisoners in appropriate places of detention;**

(b) **Accelerate judicial proceedings and, whenever feasible, make use of alternatives to detention such as electronic supervision, enhanced travel bans, house arrest and bail;**

(c) **Maintain the legal guarantees and status of remand prisoners placed in police detention facilities and introduce genuine daily outdoor exercise, allow the use of television and involvement in other meaningful activities for remand prisoners;**

(d) **Provide the Committee with information about the outcome of the Ministry of Justice working group's efforts concerning the transfer of responsibility for remand prisoners held at police facilities to the administrative branch of the Ministry;**

(e) **Ensure that persons held solely for being intoxicated are placed under the supervision of appropriately qualified staff, for example in detoxification centres.**

Detention of juveniles

18. While taking note that the small number of juveniles in detention makes it difficult to build separate detention facilities for that purpose, the Committee is concerned that minors are held with adult prisoners in places of detention (arts. 2, 11 and 16)

19. **The Committee recommends that the State party take steps to separate juvenile detainees from adults in all places of detention, bearing in mind their best interests, in accordance with the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty.**

Sanitary equipment in prisons

20. While recalling that in its previous concluding observations (see CAT/C/FIN/CO/5-6, para. 14) the Committee had expressed concern at reports indicating that 222 prison cells in three different prison facilities lacked appropriate sanitary equipment, including toilet facilities, the Committee is concerned that there are still 118 cells in two prison facilities, namely the Helsinki and Hameenlinna prisons, with no toilets and that renovated facilities will be ready for use only in 2017 (art. 11).

21. **The Committee reiterates the recommendation made in its previous concluding observations that the State party should accelerate the renovation of the Helsinki and Hameenlinna prisons in order to provide cells with appropriate sanitary equipment, including toilet facilities.**

Involuntary placement and treatment in psychiatric institutions

22. While taking note of the amendments to the Mental Health Act that entered into force in June 2016, the Committee is concerned that persons with mental and psychosocial disabilities may not be aware of the fact that they can have access to legal remedies, including the possibility to challenge involuntary hospitalization and treatment in an administrative court, even if they do not have a legal representative or a family member or other close person involved in their care (arts. 2, 12, 13 and 16).

23. **The Committee recommends that the State party amend the Mental Health Act and enact clear and specific legislation that ensures effective legal safeguards, including the provision of legal representation. In addition, the State party should strengthen the right to self-determination for persons with mental and psychosocial disabilities and ensure that their placement in psychiatric hospitals and social institutions is based on their free and informed consent, that they enjoy the right of effective appeal and that they are able to challenge involuntary hospitalization and treatment through judicial review.**

Use of restraints

24. While welcoming the announced introduction starting in May 2017 of new special buses where persons deprived of liberty will be separated, the Committee is concerned about reports that persons deprived of their liberty who are transported from one location to another are handcuffed for the duration of the transfer, despite the fact that the law prescribes the use of physical restraints as a discretionary, not a routine, measure. It is also concerned that a restraint bed continues to be used in one police station (arts. 2, 11 and 16).

25. **The State party should amend legislation with a view to strictly regulating the use of physical restraints on persons deprived of their liberty and end the practice of handcuffing persons deprived of their liberty during transport. The use of restraint beds in police stations should be abolished.**

Use of electric discharge weapons (tasers) and other crowd control weapons

26. The Committee is concerned about reports that electric discharge weapons (tasers) have been used by police officers on a number of occasions in closed environments such as police stations. It is also concerned about the use of the FN303 model of compressed air riot weapons during demonstrations, as such weapons can cause serious injuries (arts. 11 and 16).

27. **The State party should ensure that electrical discharge weapons are used exclusively in extreme and limited situations, where there is a real and immediate threat to life or risk of serious injury, as a substitute for lethal weapons and by trained**

law enforcement personnel only. The State party should revise the regulations governing the use of such weapons with a view to establishing a high threshold for their use and expressly prohibit their use on children and pregnant women. The Committee is of the view that electrical discharge weapons should be subject to the principles of necessity and proportionality and should not form part of the equipment of custodial staff in prisons or any other place of deprivation of liberty. The Committee recommends that the State party provide more stringent instructions and adequate training to law enforcement personnel authorized to use electric discharge weapons and to strictly monitor and supervise their use through mandatory recording, reporting and reviews of each use. Stringent instructions and adequate training should also be applied to the use of the FN303.

Violence against women and domestic violence

28. The Committee is concerned at the prevalence of violence against women in the State party, including domestic and sexual violence, the underreporting of cases and the lack of funding allocated to tackle it. It is also concerned that rape continues to be categorized according to the degree of physical violence and not the lack of consent, by the reported lack of sufficient support to victims, including specialized services, as well as at the absence of a sufficient number of shelters for victims of violence and their children. The Committee is further concerned that forced marriage is not included in the Criminal Code as a distinct criminal offence (arts. 2, 12-14 and 16).

29. **The State party should:**

(a) **Draw up a new national action plan to reduce violence against women, ensuring that it receives adequate funding, and effectively implement the key provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (the Istanbul Convention);**

(b) **Establish an effective and independent complaints mechanism for victims of domestic violence;**

(c) **Ensure that all allegations of domestic violence, including sexual violence and violence against children, are registered by the police and are promptly, impartially and effectively investigated and that perpetrators are prosecuted and punished;**

(d) **Ensure that victims of domestic violence benefit from protection, including restraining orders, and have access to medical and legal services, including counselling, as well as redress, including rehabilitation;**

(e) **Revise the definition of rape in national legislation so that it includes lack of consent, increase the number of rape crisis centres and ensure a higher rate of reporting; strengthen the support services available to victims of sexual violence and develop a low-threshold service network that also provides long-term support;**

(f) **Provide safe and adequately funded shelters for victims and their children, including for victims of honour-based violence, throughout the country;**

(g) **Provide mandatory training for police and other law enforcement officers, social workers, judges and prosecutors on the legislation criminalizing violence against women and on the vulnerabilities of victims of gender-based and domestic violence, including child victims;**

(h) **Include forced marriage as a distinct criminal offence in the Criminal Code.**

Trafficking in persons

30. The Committee is concerned that victims of trafficking in the State party do not always receive adequate protection and recognition. It is concerned that the identification of and support provided to persons trafficked for the purpose of sexual exploitation is linked to criminal proceedings and that a recovery period is only granted to nationals and residents of the State party. In addition, it has been reported that foreign victims of trafficking are often swiftly removed from the State party without being offered assistance. The Committee is also concerned that law enforcement, immigration and other personnel who come into contact with victims of human trafficking lack systematic training and guidelines that would enable them to better identify and support victims (arts. 2, 10, 12-14 and 16).

31. **The State party should:**

(a) **Implement international and domestic anti-trafficking legislation and develop an integrated and coordinated counter-trafficking framework;**

(b) **Take effective measures to prevent and eradicate human trafficking, draft guidelines and provide specialized training to law enforcement, immigration and other public officials coming into contact with victims of trafficking on identifying victims and on investigating, prosecuting and sanctioning perpetrators;**

(c) **Increase the protection of and provide redress to victims of trafficking, including free legal aid, medical and psychological aid and rehabilitation, as well as access to adequate shelters and assistance in reporting incidents of trafficking to the police; grant a recovery period to all victims of trafficking and prevent the return of trafficked persons to their countries of origin whenever there are substantial grounds for believing that they would be in danger of being subjected to torture.**

Training

32. While noting the various forms of training provided to public officials, the Committee is concerned that training on the prohibition of torture is only provided to the Finnish Border Guard and not to all persons coming into contact with persons deprived of their liberty. It is also concerned that training of personnel in police prisons has been considered uneven by the Parliamentary Ombudsman, that information on the training of public officials is not collected in a systematic manner and that no assessments of training programmes are available. It is also concerned that training on the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol) is not provided to all medical professionals and other officials dealing with persons deprived of liberty (art. 10).

33. **The State party should:**

(a) **Make training on the provisions of the Convention and the absolute prohibition of torture mandatory for all law enforcement personnel, in particular those coming into contact with persons detained in police detention facilities;**

(b) **Collect information on the training of law enforcement personnel and public officials in a systematic manner and develop and implement specific methodologies to assess its effectiveness and impact;**

(c) **Ensure that the Istanbul Protocol is made an essential part of the training of all medical professionals and other public officials involved in work with persons deprived of their liberty;**

(d) **Put in place training programmes on non-coercive investigation techniques in line with the recommendations of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.**

Follow-up procedure

34. **The Committee requests the State party to provide, by 7 December 2017, information on follow-up to the Committee's recommendations on the national preventive mechanism, on the transfer of responsibility for remand prisoners held at police facilities to the administrative branch of the Ministry of Justice and on the separation of juvenile detainees from adults in all places of detention (see paras. 15, 17 (d) and 18). In that context, the State party is invited to inform the Committee about its plans for implementing, within the coming reporting period, some or all of the remaining recommendations in the concluding observations.**

Other issues

35. **The Committee invites the State party to ratify the core United Nations human rights treaties to which it is not yet party, namely the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the International Convention for the Protection of All Persons from Enforced Disappearance.**

36. **The State party is requested to disseminate widely the report submitted to the Committee and the present concluding observations, in appropriate languages, through official websites, the media and non-governmental organizations.**

37. **The Committee requests the State party to submit its next periodic report, which will be its eighth, by 7 December 2020. For that purpose, and in view of the fact that the State party has agreed to report to the Committee under the simplified reporting procedure, the Committee will, in due course, transmit to the State party a list of issues prior to reporting. The State party's replies to that list of issues will constitute its eighth periodic report under article 19 of the Convention.**